

3. Role of NSLU attorneys

[REDACTED] two attorneys in the National Security Law Unit (NSLU) of the FBI's Office of the General Counsel were assigned full-time to counterterrorism matters.⁵⁴ No attorney was assigned responsibility for a particular FISA request from beginning to end.

The two NSLU attorneys assigned to counterterrorism matters had two functions with respect to FISA requests submitted by field offices. First, they functioned in an advisory capacity. The SSA would consult with an NSLU attorney if a question or problem arose or if the SSA needed legal advice. NSLU attorneys also were consulted when there was a disagreement between the field office and FBI Headquarters about a particular issue, such as whether there was sufficient support for a FISA warrant. SSAs often discussed with NSLU attorneys whether the threshold of probable cause had been met for supporting that a subject was an agent of a foreign power. The former head of the NSLU told the OIG, however, that in "slam dunk" cases, FBI Headquarters would deal directly with OIPR without consulting an NSLU attorney.

The second function of NSLU attorneys with respect to FISA requests was to review the LHM once it was finalized and to advise whether they believed OIPR would accept the LHM as having sufficient evidence to obtain a FISA warrant. If the NSLU attorney did not believe that the LHM contained sufficient evidence, the NSLU attorney would advise the SSA what additional information was needed and make suggestions about how the additional information could be acquired. Once the LHM was finalized and approved by the NSLU attorney, the signatures of the Unit Chief and the Section Chief were obtained, and the LHM was sent to OIPR.

The NSLU attorney and the SSA also could make recommendations to the field office about how to acquire any additional information that was needed. If the field office provided additional information to support the FISA request, the LHM was revised and the FISA request was reviewed again. This process would continue until the NSLU attorney was satisfied that the

⁵⁴ Other NSLU attorneys primarily worked counterintelligence matters, although some of them assisted with counterterrorism matters when necessary.

standards for obtaining the FISA warrant were met. This step in the process also could last from several days to several months.

4. Role of OIPR attorneys

Once the SSA obtained the necessary FBI Headquarters approvals, the LHM and its supporting documents were provided to OIPR for preparation of the required pleadings. An OIPR attorney would review the LHM and determine whether there was sufficient evidence to obtain a FISA warrant. The OIPR attorney would consult with the FBI Headquarters SSA about any questions and would sometimes prepare a list of questions for the SSA to answer in writing. The SSA often consulted with the field office to obtain the information requested by the OIPR attorney and sometimes asked the field office to conduct additional investigation. This process also could take anywhere from several days to several months.

Once the OIPR attorney was satisfied that there was sufficient evidence to support the FISA application, an OIPR attorney prepared the draft pleadings. A supervisory attorney in OIPR would review the draft pleadings and make recommendations and revisions. The final draft was provided to the SSA and the NSLU attorney for review. After finalizing the pleadings and obtaining the signatures of the FBI Headquarters SSA who signed the affidavit, the Attorney General, and the FBI Director, the OIPR attorney filed the pleadings with the FISA Court, along with a draft order for the judge's signature. The FISA Court would then schedule a hearing, which was attended by the OIPR attorney and the SSA.

If the FISA Court approved the warrant, it issued an order authorizing the surveillance or search. Orders authorizing surveillance were for a specific period, beginning and ending on a certain day and time. The order was transmitted to the field office responsible for conducting the surveillance or search.

5. Expedited FISA warrants

In the Moussaoui investigation, the Minneapolis Field Office requested an "emergency FISA," which was a FISA that could be obtained in an

expedited manner.⁵⁵ The SSAs and NSLU attorneys we interviewed told us that what rose to the level of “expedited” depended on what the field office and ITOS management deemed to be an immediate priority. According to these witnesses, in the summer of 2001 expedited FISA requests normally involved reports of a suspected imminent attack or other imminent danger.

Although the normal processing time for a FISA application was several weeks or months, FBI Headquarters working with an NSLU attorney and OIPR could prepare an expedited FISA application for presentation to the FISA Court in a matter of several hours or days, depending on the circumstances giving rise to the expedited request.

⁵⁵ Although expedited FISA requests were commonly referred to as “emergency FISAs,” the statute provided for an “emergency FISA” that was different from an expedited FISA. The statute stated that an emergency FISA allowed the Attorney General - *without* prior approval of the FISA Court - to authorize the execution of a search warrant or electronic surveillance if the Attorney General determined that “an emergency situation exists” and there was a “the factual basis for issuance of an order” in accordance with the statute. See 50 U.S.C. § 1805(e) (electronic surveillance) & § 1824(e) (physical search warrant). The government was required to present an application to the FISA Court with respect to any such warrantless search or electronic surveillance within 24 hours of the execution of the search or surveillance. 50 U.S.C. § 1805(e) (electronic surveillance) & § 1824(e) (physical search warrant). This type of emergency FISA rarely was used before September 11, 2001.

CHAPTER THREE

THE FBI'S HANDLING OF THE PHOENIX ELECTRONIC COMMUNICATION AND OTHER INFORMATION RELATING TO USE OF AIRPLANES IN TERRORISTS ATTACKS

I. Introduction

In this chapter of the report, we examine allegations that the FBI failed to act prior to September 11, 2001, on intelligence information that warned of potential terrorists training in aviation-related fields of study in the United States. The focus of these allegations concerned an Electronic Communication (EC) dated July 10, 2001, that was written by Kenneth Williams, a special agent in the FBI's Phoenix Division. In his EC, Williams wrote that he believed that there was a coordinated effort by Usama Bin Laden to send students to the United States to attend civil aviation universities and colleges. He suggested that the purpose of these students would be to one day work in the civil aviation industry around the world to conduct terrorist activity against civil aviation targets. Williams wrote that he was providing the information in the EC for analysis and comments. Williams addressed the EC to several people in FBI Headquarters and in the FBI's New York Division.⁵⁶

After September 11, 2001, the FBI has acknowledged several problems in how the Phoenix EC was handled. The FBI stated that the information raised in the EC should have been analyzed by the FBI, but that such analysis did not occur before September 11. In addition, the FBI acknowledged that the Phoenix EC should have been disseminated to other intelligence agencies and to the FBI's field offices for their consideration, but it was not disseminated before September 11.⁵⁷

⁵⁶ A redacted copy of this document is attached in the Appendix.

⁵⁷ Director Mueller's written statement for his October 17, 2002, testimony before the Joint Intelligence Committee Inquiry (JICI) stated: "We have heard, and we acknowledge, the valid criticisms, many of which have been reiterated by this Committee. For example, the Phoenix memo should have been disseminated to all field offices and to our sister agencies." Former ITOS Section Chief Michael Rolince testified before Congress that the (continued)

In this chapter we analyze the FBI's handling of the Phoenix EC. We first provide background on how leads were communicated and assigned in the FBI before September 11, 2001. We then summarize the contents of the EC. Next, we describe in detail how the Phoenix EC was handled within the FBI before September 11. In the analysis section, we examine problems in how the Phoenix EC was handled, first focusing on the systemic problems that affected the way the FBI treated the EC and then on the performance of the individuals involved with the EC. Finally, at the end of the chapter we discuss several other pieces of information in the possession of the FBI before September 11 that also noted connections of potential terrorists to flight schools or the use of airplanes.

II. The Phoenix EC

A. Background

In this section, we first provide the key terminology and a description of FBI processes that are relevant to the handling of the Phoenix EC.

1. Assigning leads in the FBI

When an FBI field office needs assistance or information from another office or from FBI Headquarters, it "sets a lead" for the assistance. Leads are initially written out in ECs, hard copies of which are mailed to the appropriate offices. In addition, when the EC is "uploaded" to the FBI's Automated Case Support (ACS) system, leads associated with the EC are "set" electronically in ACS system. We describe both processes below.

a. The manual process

The specific action requested in an EC is stated in the lead section, which is at the end of the document. In the "To:" section of the EC, the author specifies the offices to which the EC is addressed. In the "Attention:" section,

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Phoenix EC should have been provided to the personnel assigned to FBI Headquarters from other agencies, such as the INS, the CIA, the FAA, and others, for their assessment.

the author specifies the persons who the author believes should receive a copy of the EC.

ECs have a line marked "Precedence." There are three options on the precedence line: "Immediate," "Priority," and "Routine." The FBI's investigative manual states that "immediate" precedence should be used "when the addressee(s) must take prompt action or have an urgent need for the information." The manual states that "priority" precedence should be used when information is needed within 24 hours, and "routine" precedence should be used when information is needed within the normal course of business. The time frame for responding to "routine" requests is not specified.

The office preparing an EC that sets a lead normally sends a hard copy of the EC to the offices with leads mentioned in the EC. The paper EC is normally sent through "Bureau mail," which is the FBI's interoffice mail delivery system.

The distribution of the hard copy EC in the receiving office varies from office to office. In most offices, the EC is routed to an administrative employee assigned to the substantive program that is the subject of the EC, such as the squad secretary for the counterterrorism squad if counterterrorism is discussed in the EC. The administrative employee decides who should receive the hard copy EC, whether copies will be made, and for whom. All individuals listed on the attention line of a hardcopy EC do not necessarily receive a copy of the EC through the manual distribution process.

b. The electronic process

Leads contained in ECs also are set electronically in ACS when the EC is completed and is "uploaded" to ACS. The office requesting the lead can enter in ACS a deadline for handling the lead. If no deadline is set, the default deadline in ACS for action is 60 days.

ACS contains an "electronic routing table" for each office that receives leads electronically through ACS. FBI offices set up the electronic routing table to assign leads to a particular person's "lead bucket" based on the case number provided in the "Case ID #" field of the EC. For example, a field office may program its electronic routing table to direct all leads associated with cases having international terrorism identifiers to the secretary for the international terrorism squad. The secretary would then be responsible for

checking the "lead bucket" and determining to whom to assign the lead electronically.

FBI employees are responsible for checking ACS periodically and accessing their lead bucket to see if any leads have been assigned to them. ACS does not notify users when leads are assigned to them. Only persons who are assigned a lead will see a notification of an EC associated with the lead when they check their lead buckets. All other persons listed on the attention line of the EC must search ACS for their names by conducting text searches and other kinds of searches to determine if there are any ECs containing their names.

In ACS, leads may be "reassigned" or may be "closed." When leads are closed, the person closing the lead fills in the field labeled "disposition" to indicate what action was taken with respect to the lead. However, ACS does not require this field to be completed in order to close the lead.

c. Persons responsible for assigning leads

At FBI Headquarters, the Radical Fundamentalist Unit (RFU) and the Usama Bin Laden Unit (UBLU) were the two units in the International Terrorism Operations Section (ITOS) involved in the handling of the Phoenix EC. Within the RFU and UBLU, Intelligence Assistants, called IAs, were responsible for many duties, including distributing hard copy ECs to the appropriate persons in the units, assigning leads in ACS, conducting name checks in ACS, and preparing ECs. In addition, before September 11, 2001, an IA assigned to an administrative unit in ITOS was responsible as a collateral duty for assigning leads that had been routed to ITOS' general lead bucket in ACS. During the time period relevant to our investigation, this IA could assign leads from ACS directly to analysts in the section, called Intelligence Operations Specialists (IOSs). The IA also could route ECs directly to IOSs without any supervisor's input or knowledge.

IAs within the RFU and the UBLU normally determined to whom to assign a lead based on the case identifier, which is one of the required fields on an EC. For example, 199M matters, called "IT-Other," were investigations related to terrorist groups that were not associated with one of the FBI's 17 other specific case identifiers. 199M or IT-Other matters normally were

assigned to the RFU. The case identifier associated with the Phoenix EC was 199M, which fell under the RFU.

Within a particular unit, the specific case number would also be used to determine whether an IOS or Supervisory Special Agent (SSA) was working on the designated case and therefore would be responsible for the lead.

d. "Read and clear"

A common type of lead is a "read and clear" lead. According to FBI procedures, "read and clear" leads are for informational purposes and do not require any action, other than "clearing" the lead in ACS by closing the lead. Witnesses told the OIG that setting a "read and clear" lead is similar to sending a "cc:" copy of a document to someone to read for their information.

e. Persons responsible for conducting analysis in the FBI

As discussed in Chapter Two, analysis of counterterrorism information normally was conducted in two places in the FBI. Operational or case-related analysis was performed primarily by IOSs who worked in ITOS, located in the Counterterrorism Division. Broader, strategic analysis was performed by Intelligence Research Specialists (IRSs) who at the time worked in the FBI's Investigative Services Division (ISD), a separate division from the Counterterrorism Division.⁵⁸

As discussed in more detail below, the Phoenix EC was addressed to several SSAs and IOSs in ITOS. It was not addressed to any IRSs or anyone in the Investigative Services Division.

⁵⁸ ISD was created in November 1999 and housed the FBI's analytical resources, such as the IRSs who handled counterintelligence matters, organized crime and white-collar crime matters, and domestic and international terrorism matters. In addition, ISD included an Intelligence and Operations Support Section that was responsible for administering the field's analytical program and training and automation requirements. ISD was eliminated in the beginning of 2002.

B. The Phoenix EC

Kenneth Williams, the special agent who wrote the Phoenix EC, joined the FBI in 1990, and was assigned to the Phoenix Division. He worked his first year and a half on white-collar matters. Since then, he was assigned to work on international terrorism matters. Williams told the OIG that while working on international terrorism matters, he spent almost all of his time on a terrorist organization that was not connected to Al Qaeda or Bin Laden. At FBI Headquarters, responsibility for this terrorist organization fell under the jurisdiction of a unit in ITOS other than the Usama Bin Laden Unit (UBLU). Williams said that he had not had any contact with the UBL unit. At the time of the EC, Williams reported to an SSA who we call "Bob," who was responsible for the Phoenix counterterrorism squad.

The Phoenix EC was dated July 10, 2001, and was addressed to the Counterterrorism Division at FBI Headquarters and to the New York Division. The precedence line on the EC was marked "routine."

[REDACTED]

[REDACTED] The EC stated that there was an inordinate number of individuals of investigative interest who were attending or had attended civil aviation universities and colleges in Arizona. [REDACTED]

[REDACTED]

1. Information on individuals

As the basis for his concerns, Williams summarized in the EC the results of four Phoenix intelligence investigations of four subjects who we will call "Subject No. 1," "Subject No. 2," "Subject No. 3," and "Subject No. 4."⁵⁹ The

⁵⁹ Williams was responsible for the Subject No. 1 investigation, which was summarized in the EC. The other three investigations were international terrorism intelligence cases (continued)

other persons of investigative interest were described as seven "associates" of Subject No. 1. The Phoenix Division had opened a "preliminary inquiry" for an intelligence investigation about each of these persons but had not yet developed sufficient information to open a full investigation.

Williams identified the connections of these individuals to aviation as follows: (1) Subject No. 1 was an aeronautical engineering student at Embry-Riddle Aeronautical University (ERAU) in Prescott, Arizona;⁶⁰ (2) Subject No. 2 took classes at Cochise College, located in Douglas, Arizona, in the late 1990s to obtain an FAA certificate in airframe and power plant operations;⁶¹ and (3) Subject No. 3 and Subject No. 4 were known to associate with a person we will call Subject No. 5, whose telephone number was associated with a known supporter of an African Muslim terrorist organization and who reportedly left the United States in the late 1990s after graduating from Westwind Aviation in Phoenix, Arizona.⁶²

(continued)

handled by other agents on Williams' squad and another squad in the Phoenix Division. Subject No. 2 also had been the subject of a separate investigation in an FBI field office in the western part of the United States before he moved to Arizona in the late 1990s. This field office's investigation of Subject No. 2 was closed at the time the Phoenix EC was written.

⁶⁰ Williams stated in the EC that Subject No. 1 was enrolled in aeronautical engineering. ERAU offers a degree in aerospace engineering with a concentration in aeronautical engineering. Aeronautical engineering is the study of aircraft design.

⁶¹ A certificate in airframe and power plant operations allows an individual to become an aviation maintenance mechanic. The courses for this certificate deal largely with maintaining aircraft in airworthy condition.

⁶² The Phoenix EC does not state what courses Subject No. 5 took at Westwind Aviation. The Phoenix EC also does not state whether the FBI had an investigation open on Subject No. 5 at the time; however, according to Williams, the FBI did not have any investigation open on Subject No. 5 at the time because he was not in the United States. Subject No. 5's name had surfaced in another FBI investigation involving the same African Muslim terrorist organization that Subject No. 5 was believed to be connected to. After September 11, Subject No. 5 was arrested on terrorism charges related to the September 11 attacks, but he was released when a court found that the prosecutors lacked any evidence connecting Subject No. 5 to the events of September 11.

With respect to the seven associates of Subject No. 1, Williams wrote that three were enrolled in pilot training at ERAU, and three were enrolled in an aeronautical engineering program at ERAU. For the seventh, Williams had no record of classes taken.⁶³

Williams also reported in the EC the connections of Subject No. 1, Subject No. 2, Subject No. 3, and Subject No. 4 to Bin Laden and to each other, which we describe below.

Subject No. 1: The Subject No. 1 investigation was designated by Williams as a 199M or "IT-Other" matter.⁶⁴ Williams told the OIG that he had opened the Subject No. 1 case under this designation after obtaining material in Subject No. 1's garbage relating to Ibn Khattab, who Williams believed had a connection to Bin Laden. As discussed in more detail in Chapter Four, Ibn Khattab was a Jordanian-born, Islamic extremist who was the leader of a large group of Chechen rebels that had many successes in clashes with Russian forces.⁶⁵

In summarizing his investigation of Subject No. 1, Williams wrote in the EC that Subject No. 1 came to the United States in the late 1990s, and that in April 2000 one of Williams' sources reported that Subject No. 1 was a supporter of Bin Laden. In addition, the EC stated that the source told Williams that Subject No. 1 was involved in the Al-Muhjiroun,⁶⁶ a Muslim fundamentalist organization that Williams described as "dedicated to the overthrow of Western society" and as "an ardent supporter of [Bin Laden]." As further support for a connection between these persons and civil aviation,

⁶³ We asked Williams to confirm the courses these individuals took. After reviewing their files, Williams told the OIG that only two of the individuals were enrolled in pilot training and the other four were enrolled in aeronautical engineering.

⁶⁴ An EC requires a case number field to be completed. Williams used the Subject No. 1 case number in the case number field of the Phoenix EC.

⁶⁵ Chechnya is a republic of the former Soviet Union. Since the collapse of the Soviet Union in 1991, Chechen separatists – both Islamic and non-Islamic – have sought independence from Russia.

⁶⁶ We observed several spellings for this organization in FBI documents, including Al-Muhajiroun and Al-Mouhajiroun.

Williams noted that the spiritual leader of the Al-Muhjiroun had issued a religious degree (or "fatwa") in February 1998 in which he declared a "jihad" or "holy war" against the United States and British government, armies, interests, and **airports.**" (Emphasis in original.)

Williams wrote in the EC that he had interviewed Subject No. 1 in the spring of 2000 and that during these interviews, which were conducted in Subject No. 1's apartment, Williams observed photographs on the walls of Bin Laden, Ibn Khattab, and wounded Muslim separatists from Chechnya. Williams wrote that Subject No. 1 admitted during these interviews to being involved in the Al-Muhjiroun, and that he considered the U.S. government and military forces to be "legitimate military targets of Islam." Williams noted in the EC that his investigation of Subject No. 1 was continuing.

Subject No. 2: Williams reported in the EC that Subject No. 2 was known to have contact with Bin Laden lieutenant Abu Zubaida. Williams wrote that Subject No. 2 had moved to Arizona in 1998, but had left the United States in October 1999.⁶⁷

Williams also wrote that two persons arrested in June 2001 in Bahrain had admitted to being members of al Qaeda and had been planning an operation to bomb the U.S. embassy and military forces in Saudi Arabia. At the time of their arrest, they had in their possession a passport of a man who was believed to be a relative of Subject No. 2. Williams wrote that the man who was believed to be a relative of Subject No. 2 previously had entered the United States in 1998 with this passport and was associated with an address known to be that of Subject No. 2. Williams wrote that he had not been able to establish a connection between Subject No. 1 and Subject No. 2.⁶⁸

Subject No. 3 and Subject No. 4: Williams reported in the EC that investigations of Subject No. 3 and Subject No. 4 had been opened based on

⁶⁷ The FBI field office that had been investigating Subject No. 2 had closed its investigation of Subject No. 2 at the time the Phoenix EC was written.


⁶⁸ Williams wrote in the EC that Subject No. 1 arrived in the United States in August 1999 and that Subject No. 2 left the United States in October 1999. Williams also wrote that "Subject No. 2 had departed the U.S. prior to Subject No. 1's arrival." Williams told the OIG that this last statement was in error.

information from foreign governments demonstrating that they were both involved with African Islamic extremist/terror activity and had associated with individuals who had associated with Ahmed Ressam. Ressam was arrested on December 14, 1999, attempting to cross the border from Canada into the United States with chemicals and detonator materials in his car.⁶⁹

Williams wrote that Subject No. 3 and Subject No. 4 were friends with Subject No. 5, whose telephone number had been associated with a known supporter of an African Islamic terrorist organization. Williams noted that Subject No. 3, Subject No. 4, and Subject No. 5 had not been linked to Subject No. 1 or Subject No. 2. The EC did not state whether the FBI had an investigation open on Subject No. 5 or provide any further details on him. The EC reported that Subject No. 5 had left the country in November 1997 after graduating from Westwind Aviation. The EC did not describe the connections between the African Islamic terrorist organization and Bin Laden or al Qaeda.

2. Recommendations in the Phoenix EC

The Phoenix EC made four recommendations:

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- “FBI field offices with these types of schools in their area should establish appropriate liaison” with the schools;
 - “[FBI Headquarters] should discuss this matter with other elements of the U.S. intelligence community and task the community for any information that supports Phoenix’s suspicions”; and
 - “[FBI Headquarters] should consider seeking the necessary authority to obtain visa information from the [Department of State] on individuals obtaining visas to attend these types of schools and notify the appropriate FBI field office when these individuals are scheduled to arrive in their area of responsibility.”

⁶⁹ The Phoenix EC did not state Ressam’s affiliation with Bin Laden or al Qaeda.

In the lead section of the EC, Williams wrote that he was requesting that FBI Headquarters consider implementing the suggested actions. The New York Division lead was designated as a "read and clear" lead. At the end of the EC, Williams wrote that the information was "being provided to receiving offices for information, analysis and comments."

3. Addressees on the Phoenix EC

The attention line of the EC contained the names the unit chief of the RFU, who we call "Don"; an IOS in the RFU who we call "Ellen"; the acting unit chief of the UBLU, who we call "Rob"; and UBLU IOSs who we call "Jane," "Matthew," and "Frank."⁷⁰ The RFU and the UBLU were the two units with program responsibility for the two primary organizations discussed in the EC: Al-Muhjiroun and Bin Laden/al Qaeda.

The attention line also contained the names of two Special Agents who worked on two different international terrorism squads in the New York Division: an agent who worked on the New York FBI's Bin Laden squad who we call "Jay", and an agent who we call "Mark" and who worked on a New York squad that handled investigations that fell under the RFU.

Williams told the OIG that his prior experience did not involve Bin Laden or Al Qaeda and instead centered on another terrorist organization which was managed by a unit other than the Bin Laden Unit at FBI Headquarters. He said that he was therefore not familiar with the personnel in the other units within ITOS, except for one long-time RFU IOS, who we call Frank. Williams said that he called Frank to obtain the names of the persons working in the RFU and the UBLU, and that he put in the attention line of the EC the names he had obtained by calling Frank.

Frank told the OIG that he recalled talking to Williams about the EC and recommending several potential points of contact. Frank said that based on his understanding of what Williams was writing about, several people needed to

⁷⁰ Williams mistakenly identified the IOSs as IRSs in the Phoenix EC. In addition, at that time Matthew and Frank worked in the RFU, not the UBLU. At the request of the FBI, we have omitted the true names of most of the agents and the analysts who are discussed in this report.

see the EC because more than one program was involved. He said that because the New York Field Office was the primary field office that handled the FBI's Bin Laden-related investigations, he likely recommended that Williams also address the EC to a point of contact in New York.

When asked why he did not recommend including any IRSs on the attention line, Frank told the OIG that the Investigative Services Division was "on its last legs" at the time and that there were very few IRSs in the ISD still working on analysis. He explained that any work of the IRSs would have to be coordinated through an IOS, so it made sense to route the EC through an IOS in the first instance.

Williams also told the OIG that at the time he was familiar by name with Ellen because, prior to writing the Phoenix EC, he had accessed in ACS an EC she had written on the Al-Muhjioun in 1999. Ellen told the OIG that Williams called her on July 9, 2001, to tell her that he had used her paper in writing his EC and that he had included her name on the attention line. She said that he also asked her if she recommended anyone to include on the attention line and that she gave him the name of Mark, one of the New York Division agents who had been the case agent for the FBI's investigation of the Al-Muhjioun.

C. Williams' theory

[REDACTED]

He said that he was basing the theory on his almost ten years of experience in international terrorism cases and his knowledge that al Qaeda had a presence in Arizona. He said that he had learned in squad meetings about Subject No. 2, and he thought it was "unusual" that Subject No. 2 would come across the world to study aircraft maintenance in the United States. Williams said that at the time, he also was working the investigation of Subject No. 1 and he began thinking that he should look to see how many other investigations were being handled in Arizona that involved individuals with Islamic militant viewpoints [REDACTED]. He said that after he did and learned about several others of interest to the FBI, he decided to put his thoughts and recommendations on paper.

Williams explained that he was not focused on flight schools, but instead focused on colleges and universities where individuals could earn degrees in aviation-related subjects and then obtain jobs in the civil aviation industry in this country. [REDACTED]

[REDACTED] Rather, he believed that there could be an effort under way to develop expertise about where to put an explosive device on an airplane or how to mechanically alter an airplane in order to cause it to crash. Williams told the OIG that he did not have information of a specific threat or pending attack, which is why he marked the EC's precedence as "routine."

Williams told the OIG that he did not know at the time whether Subject Nos. 3 and 4 discussed in the EC or the African Islamic terrorist organizations were connected to Bin Laden or al Qaeda. Williams said that he was trying to "paint a picture of people associated with radical Islam" who were also associated with aviation. Williams said he wanted FBI Headquarters to look at his EC and answer the question: [REDACTED]

[REDACTED] He stated that he did not expect an immediate response and believed that it would take at least a couple of months for FBI Headquarters to review the EC, because he knew that resources for this kind of analytical project at FBI Headquarters were limited. In addition, he said that he wanted FBI Headquarters to share his theory with other elements of the Intelligence Community to see if anybody else had any information to corroborate his theory.⁷¹

⁷¹ In the summer of 2003, the OIG received new allegations from a former FBI confidential informant whose control agent had been Williams. The former informant alleged that he had informed Williams in October 1996 that he was concerned that a terrorist could use crop duster airplanes as weapons and that one of the subjects of the Phoenix EC and other Middle Easterners were attending flight schools in Arizona. The former informant also said that he believed Williams had written the Phoenix EC because in May 2001 the informant had raised complaints with the Phoenix FBI about how it handled him as an informant and why he was closed as an informant in 1999. The former informant also alleged that a reporter had called Williams in June or July 2001 about the former informant's information concerning Middle Eastern matters.

[REDACTED]
(continued)

Williams stated that he also knew that there were some “inherent legal issues” with the recommendations in the EC because he believed that concerns about racial profiling would have to be addressed. Moreover, he said that he was not aware at the time whether the FBI had the authority to review the visa information of thousands of people applying to civil aviation universities and colleges in the United States, as he had recommended in the EC.

After the Phoenix EC was completed and sent, Williams did not contact anyone at FBI Headquarters or in New York to discuss its contents or check the status of the leads in ACS.

D. FBI Headquarters’ handling of the Phoenix EC

Although the EC is dated July 10, the Phoenix Division did not upload the EC into ACS until the afternoon of Friday, July 27, 2001. The Phoenix FBI also mailed the paper copy to FBI Headquarters around July 27.

ACS records show that, because of the case designation listed on the Phoenix EC, the lead for FBI Headquarters was initially routed electronically through the ITOS electronic routing table to a general ITOS lead bucket that was handled by an ITOS administrative unit. The lead was not directly routed to the RFU or the UBLU.⁷² An IA in the administrative unit in ITOS was responsible for checking the ITOS general lead bucket regularly and electronically assigning these kinds of leads to the appropriate person within ITOS.

(continued)

[REDACTED]

In addition, Williams said that he never spoke to the reporter who the former informant said had called Williams, and that he was not prompted to write the Phoenix EC because of a phone call from any such reporter.

⁷² At the time, the electronic routing table in ACS for the Counterterrorism Division was set up to automatically route leads associated with cases with the type of case number designated on the Phoenix EC to an administrative unit in ITOS rather than to a particular operational unit.

1. Assignment to the RFU

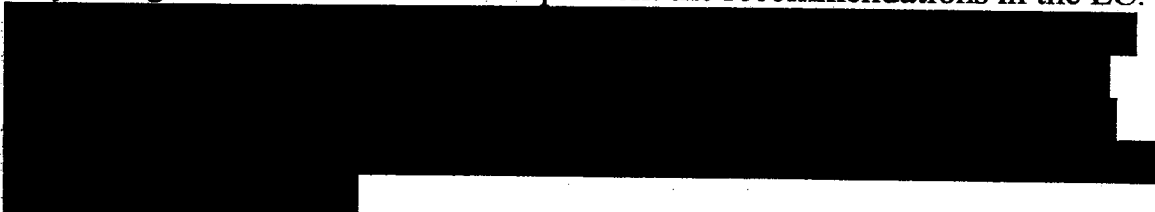
On the morning of Monday, July 30, 2001, the ITOS IA accessed in ACS the text of the Phoenix EC. ACS shows that on that same day the ITOS IA assigned the lead in ACS to Ellen, an IOS in the RFU who was listed second on the attention line of the EC.

The ITOS IA told the OIG that he did not recall the Phoenix EC or assigning the lead, but that his practice was to review the text of the lead and the person or persons listed on the attention line to determine to whom to assign the lead. The EC indicated that it related to an "IT-Other" matter and these cases fell under the RFU. The ITOS IA said that he sometimes consulted with his unit chief if he was unsure to whom to assign the lead, but he said he did not recall whether he did so in this case.

Ellen told the OIG that she pulled the Phoenix EC up in ACS, printed a copy, and read it.⁷³ She said that, after reading it, she thought that the EC should be reviewed by the UBLU, not by her unit, because the EC discussed Bin Laden and al Qaeda, which were the responsibility of the UBLU.

Ellen therefore discussed the EC with one of the IOSs who worked in the UBLU, who we call Jane. Ellen said she recalled asking Jane if she should transfer the lead to Jane, and that Jane stated that she did not have time to look at it then. Ellen said that Jane asked if she could get back to Ellen in a week.

Ellen said that she therefore consulted with Jane about a week later. ACS records show that Jane downloaded the Phoenix EC from ACS on August 7, 2001. According to Ellen, she and Jane discussed the tremendous effort that they thought would be needed to implement the recommendations in the EC.



Ellen said that Jane agreed that Jane should handle the Phoenix EC. Ellen told the OIG that she remembered Jane saying she wanted to do more

⁷³ Ellen told the OIG that she never received a hard copy of the Phoenix EC.

research on FBI investigations to determine what other connections might exist between Bin Laden, al Qaeda, [REDACTED], and then, depending upon the results of that research, perhaps disseminate it. Ellen said that Jane also told her that she also wanted to speak with her supervisor and decide what action to take on the Phoenix EC.

Ellen said that, after talking with Jane, she closed the lead in ACS on August 7, 2001, indicating in ACS that Jane was planning to conduct additional research before proceeding. ACS shows that Ellen wrote in the "disposition" field for the lead that the lead was "covered-consulted with UBLU, no action at this time, will reconvene on this issue." Ellen said that after she and Jane discussed the issue, they agreed to "revisit" the issue later once Jane had done some research and had a better idea of how to proceed. Ellen also said that she closed the lead rather than asking an IA to reassign the lead to Jane because she knew that it would take some time for the necessary research to be done, and that the RFU unit chief – Don – had instructed RFU employees that leads had to be closed in a timely manner.

Ellen told the OIG that she thought that the theory presented in the EC was "interesting," but that she, like Jane, believed that further research needed to be conducted before any action was taken on the Phoenix EC. Ellen also asserted, "It was a theory that certainly needed to be explored more fully before disseminating it to the [Intelligence Community] as fact or not." In addition, Ellen said that she believed that attorneys in the FBI's National Security Law Unit (NSLU) would have had to review the Phoenix EC before any action could be taken on it because the issue of racial profiling was "hot."

When we asked Ellen whether she considered referring the Phoenix EC to the ISD to research and analyze, she stated that the RFU did not have an ISD analyst assigned to it at the time. Ellen acknowledged that it would have been possible for the ISD to assign an IRS analyst to do strategic research regarding the EC, but she believed the EC should first be referred to the UBLU, since the EC's focus was al Qaeda and it was the UBLU's prerogative to decide how to proceed on it.

Ellen told the OIG that she did not recall consulting with her supervisor in the RFU, an SSA who we call "Chris," about how to handle the Phoenix EC, or showing it to him. She said that she might have mentioned it in passing to Chris, but it was common for IOSs to close leads without supervisory input.

Chris was an SSA assigned to the RFU from the summer of 2000 until September 10, 2001, when he left FBI Headquarters. Chris told the OIG that he never saw or discussed the Phoenix EC with anyone prior to September 11.

Don was the unit chief of the RFU at this time. He joined the FBI in 1987 and was assigned to the RFU in May 2001. Don said that he first learned of the Phoenix EC only after the September 11 attacks. He indicated that neither Ellen nor anyone else mentioned the EC to him before September 11. He said that on average he reviewed 30 to 45 ECs a day that were assigned to the RFU, and because of the vast amount of intelligence data that had to be analyzed by the seven IOSs in the RFU, the RFU had to rely on their judgment to accurately prioritize the information. Don stated that if he had seen the Phoenix EC before September 11, he would have discussed its recommendations with his UBL counterpart, then forwarded the EC to the ITOS Section Chief, Michael Rolince, for a decision on the course of action to take on the EC.

2. Assignment to the UBLU

a. Jane's handling of the EC

As noted above, Ellen reassigned the Phoenix EC to Jane, an IOS in the UBLU. In addition, the hard copy version of the EC, which Phoenix had mailed to FBI Headquarters, also was assigned to Jane. According to Jane, on or about July 30, an IA in the RFU delivered the hard copy of the Phoenix EC to Jane. Jane provided the OIG with the copy that she received from the IA, which Jane had initialed to indicate receipt.

Jane told the OIG that she also recalled discussing the EC with Ellen. Jane said that after she read the EC, she told Ellen that she agreed that it made more sense for the UBLU, rather than RFU, to handle it because of the references to Bin Laden.

Jane told the OIG that she did not believe that there was a sufficient "factual predicate" to justify taking any immediate action on the EC, such as disseminating it to the Intelligence Community. Jane asserted that based on what was in the EC she did not believe that Subject No. 1 had a strong connection to Bin Laden. She said that the investigation of Subject No. 1 was opened as an Islamic Army of the Caucasus/Ibn Khattab matter, and, according

to Jane, "Ibn Khattab has never taken operational directions from Usama Bin Laden." She said that, according to the EC, the primary evidence of the connection was that Subject No. 1 was a member of Al-Muhjiroun and had a picture of Bin Laden on his wall. She stated that she confirmed with Ellen that while Al-Muhjiroun verbally supported Bin Laden, the FBI had not developed any evidence that Al-Muhjiroun had provided any operational support to Bin Laden.⁷⁴

In addition, Jane told the OIG that she recalled concluding that the factual predicate was weak because many of the individuals who were listed in the EC as associated with Subject No. 1 were the subjects of only preliminary inquiries, not full investigations. Jane said that based on what she saw in the EC and knew about Bin Laden, she did not see the connection between Bin Laden and Subject No. 1 or the other subjects of the EC. She stated that she did not feel "comfortable at this stage going forward with the theory that we think these individuals from these countries are coming here sent by UBL, when the preponderance of evidence indicates that these people are aligned with Al-Muhajiroun and Ibn Khattab." She said that being associated with Ibn Khattab "did not equate" with being associated with Bin Laden.

Jane said that the fact that the Phoenix EC reported that a large number of Middle Eastern men were training in U.S. aviation-related schools did not strike her as significant because it was well known that Middle Eastern men have historically trained in U.S. flight schools because they are cheaper and better than other flight schools around the world. She suggested that before September 11, even someone of investigative interest training in a U.S. school in an aviation-related field did not necessarily raise a red flag.

Jane said that she told Ellen that she needed to do some research before she took any action on the EC. According to Jane, she initially thought of a handful of steps she wanted to take based on her knowledge of ongoing cases within the FBI. Jane said that she wrote a "to do" list on a yellow post-it note and attached it to her copy of the EC. She said she thought that there were at

⁷⁴ Mark, who had been the case agent in New York on the FBI's investigation of the Al-Muhjiroun, told the OIG that the New York Division had closed its case on Al-Muhjiroun long before September 11 because the FBI was not able to establish that Al-Muhjiroun had engaged in terrorist activities or supported terrorist activities.

least four items on the list, but she could not specifically remember all of them.⁷⁵ However, she said she recalled that one of the items on the list was to review the FBI's information on Essam Al Ridi, a former personal pilot for Bin Laden who testified for the government in the trials against the persons responsible for bombing the U.S. embassies in East Africa in August 1998, to see if al Qaeda had undertaken any similar initiatives as those discussed in the Phoenix EC.

Because the EC included information about Subject No. 2, who had previously lived and studied in the United States and had ties to suspected terrorists arrested a few weeks prior, Jane said that she immediately thought of an issue being researched by an IRS in an FBI field office. We call the IRS "Lynn."⁷⁶ Lynn had been involved with the field office's intelligence investigation of Subject No. 2 when he lived in the area. As noted in the EC, two al-Qaeda operatives were arrested in Bahrain at the end of June 2001 who had been planning an operation to bomb the U.S. embassy and military forces in Saudi Arabia. At the time of their arrest, they were in possession of a passport containing the name of a person believed to be a relative of Subject No. 2.

In June 2001, Jane had asked Lynn to review her field office's case file on Subject No. 2 to try to find connections between Subject No. 2 and his associates in the state where the field office was located and the two al Qaeda operatives arrested in Bahrain. Jane told the OIG that she was familiar with this field office's investigation of Subject No. 2 and several of his associates who were living in the area. [REDACTED]

⁷⁵ In November 2001, Jane was interviewed about the EC by an OIG Special Agent who conducted a preliminary review regarding the Phoenix EC. Jane said that she gave the EC with the post-it note on it to the OIG Special Agent. The Special Agent confirmed that Jane gave him the EC along with the note, but he was not able to locate the post-it note when he retrieved the original EC several months later.

⁷⁶ Lynn had been an IRS with the FBI for approximately two years at the time of the Phoenix EC. She handled all counterterrorism-related analytical work for the FBI field office in which she was employed.

██████████ She said that she thought that Lynn might be aware of something in what she was researching about Subject No. 2's contacts in the area of the field office that could support the theory in the Phoenix EC.

As a result of the arrest of the two al Qaeda operatives in Bahrain, Jane also was dealing with Williams' supervisor who we call "Bob," and with agents in the Phoenix Division other than Williams on Phoenix's Subject No. 2 investigation, which was closed at the time. She stated that the FBI Phoenix Division had been asked to follow up on matters in the Subject No. 2 investigation that had been left unfinished, such as documents that had been collected from several sources but never read or analyzed. In addition, Jane stated that she had been in contact with the Phoenix Division about locating a source who previously had been married to a woman who was married to a family member of Subject No. 2.

However, Jane told the OIG that she did not have any contact with Williams about the Phoenix EC and that her only contact with Bob about the EC was via e-mail. On August 6, 2001, Jane sent an e-mail to Bob asking if he had any objection to her sending the Phoenix EC to Lynn. Bob replied via e-mail the same day that he did not have any objection.

The next day, Jane sent the Phoenix EC to Lynn. In an e-mail message attached to the EC, Jane stated: "I thought it would be interesting to you considering some of the stuff you were coming up with in [your field office]. Let me know if anything strikes you." Jane told the OIG that she wanted to know if Lynn saw any similar patterns between the associates of Subject No. 2 that she was researching in her area and the individuals discussed in the Phoenix EC. However, Jane did not assign a lead to Lynn, nor did she call Lynn about the Phoenix EC either before or after she e-mailed it to her.

b. Lynn's response

Lynn told the OIG that she received the Phoenix EC and Jane's e-mail, and she read them. Lynn stated that she believed that Jane sent her the EC because Jane was aware of her field office's earlier investigation of Subject No. 2 and several of his associates. Lynn said that in these investigations, the FBI observed some trends, such as that all of the subjects were of Saudi descent, were employed by Saudi airlines, and were involved with aircraft maintenance or had pilots' licenses, and that the Saudi airline company was

paying for their training. Lynn said that the investigation also had revealed that the subjects were calling various gun dealers and gun shops. She said that the FBI personnel involved in the investigation questioned whether the subjects were using Saudi airlines to transport weapons, but that nothing further had developed in the investigations to support this theory and that the field office investigation was closed. According to Lynn, by the time the name of Subject No. 2 resurfaced in June 2001 based on the arrest of the two al Qaeda operatives in Bahrain, he had not been in her area for approximately three years.

Lynn said that, although she did not recall speaking with Jane about the EC, she believed that Jane was passing the EC to her for informational purposes. Lynn said that she was interested in whether there was any information in the EC that would inform the work that she was doing on Subject No. 2 at the time, but that after reading the EC, she concluded that it did not affect her investigation. She said she considered it good information to know and that it was a "piece of the puzzle."

She stated that it was "no big secret" that Arab nationals received aviation training in the United States. She said that for these reasons, she did not respond to Jane's e-mail.

c. UBLU

Jane said that, in addition to sending the EC to Lynn, she talked to the SSA with whom she worked in the UBLU who we call Rob, and told him briefly about the EC. Jane told the OIG that she could not recall whether she provided a copy of the EC to him.⁷⁷ She said that she explained to Rob that she believed that she should do some research before deciding to act on the EC. According to Jane, Rob concurred with her course of action.

⁷⁷ Jane later informed the OIG that she handed the Phoenix EC to Rob, that he skimmed the synopsis, and that he listened to her summary of the document and proposed course of action.

Rob was Jane's SSA and also the Acting Unit Chief of the UBLU at the time. Rob, an FBI agent since 1990, had been assigned to the UBLU since 1999. He was the Acting Unit Chief of the UBLU from June 28, 2001, until September 10, 2001. He told the OIG that he routinely reviewed dozens of ECs on any given day, and he often relied on the judgment of Jane and other IOSs concerning intelligence decisions.

Rob said that he remembered Jane coming to him in the second week of August 2001 and telling him briefly about the Phoenix EC. He said that he also recalled her saying that she believed some preliminary research needed to be done before proceeding. He said that he did not see a copy of the EC, but based on Jane's description, concurred with her decision to conduct some initial research before taking any other steps. Rob said he did not discuss the Phoenix EC with anyone else.

According to Jane, she intended to address the Phoenix EC as time permitted. However, she said that she believed it would take a significant amount of time to do the research necessary to determine an appropriate response to the EC. She said that she was not able to return to the EC between August 7 and September 11 because of her heavy workload at the time. In addition to the work generated by the al Qaeda operatives arrested in earlier in the summer in Bahrain, she said that other matters at the time were of a higher priority than the Phoenix EC, such as another would-be al Qaeda "bomber" who was arrested in a foreign country, analysis of information received from a number of sources on the brother of a key Bin Laden lieutenant, and several al Qaeda-related threats of imminent attack. She stated that the entire UBLU was flooded with leads and requests concerning Bin Laden and also was handling "dozens" of leads on a daily basis associated with the attack on the *U.S.S. Cole* that had occurred in Yemen in October 2000.

When we asked Jane why she did not refer the Phoenix EC to the ISD for analysis, she said she did not recall ever thinking that she should refer the EC to the analytical unit within the ISD. Jane noted that at the time the Phoenix EC was sent to FBI Headquarters, no IRS was assigned to the UBLU from the ISD. The last IRS assigned to the UBLU had arrived in February 2001, but had transferred in early July 2001 to another unit. The ISD had not replaced her.

Jane, who had been an IRS for approximately six months before becoming an IOS, told the OIG that she had planned to conduct the necessary analysis with respect to the theory presented by Williams because she did not believe there was anyone in the ISD to do this kind of research and analysis. When asked if she could have made a request of the ISD for assistance despite no one being specifically assigned to UBL matters, Jane responded that in other instances where her unit had asked for research from the ISD, it was not able to provide the support requested because it lacked adequate personnel to do so.

Jane said that she did not recall seeing the Phoenix EC again until after September 11.

The two other individuals in the UBLU who were listed on the attention line of the EC – Frank and Matthew – told the OIG that they did not see the Phoenix EC before September 11. ACS records also show that they did not access the Phoenix EC before September 11. ACS records also show that no other FBI Headquarters employees accessed the Phoenix EC before September 11.

E. The New York Division's handling of the EC

The Phoenix EC also was routed by hard copy and through ACS to the FBI's New York Division. Williams told the OIG that he sent the EC to the New York Division because it was the focal point for Bin Laden matters in the FBI. At the time, the New York Division was working several criminal and intelligence cases related to Bin Laden's terrorist activities.

Williams told the OIG that, by sending the EC to the New York office, he was seeking the expertise and knowledge of the office, not simply informing it of his theory. Williams said that he was anticipating an analysis of his theory from those in the FBI with more expertise and experience with Bin Laden matters, including the New York Division.

The "attention" field of the EC contained the names of two New York FBI agents, who we call Jay and Mark, and the lead was designated as "read and clear." As discussed above, within the FBI read and clear leads are considered for informational purposes and do not require any specific action.

Based on the electronic routing table in ACS, in New York the lead was initially routed to the Assistant Special Agent in Charge (ASAC) for the New York FBI's Counterterrorism Program. The ASAC's secretary was responsible for assigning leads routed to the ASAC. On July 30, 2001, she assigned the lead to a New York international terrorism squad based on the case number.

According to witnesses we interviewed in New York, the volume of read and clear leads received each day by the New York office was enormous.⁷⁸ Squad secretaries were usually responsible for assigning "read and clear" leads directed to their squads. Leads were assigned to specific agents based on the names listed in the "attention" section of the EC, the case number, or the content of the EC. The Phoenix EC lead, however, was never assigned in ACS to a particular agent. The secretary of the New York international terrorism squad that had been assigned the lead closed the lead in March 2002.⁷⁹

The New York office's hard copy of the Phoenix EC was routed to the international terrorism squad that handled Bin Laden investigations, where it was provided to Jay, the first New York agent listed on the EC. Jay had been a special agent with the FBI since 1976 and had worked on international terrorism matters since 1984. Since 1996, he was assigned to the squad that handled Bin Laden-related investigations, working primarily criminal investigations.⁸⁰

Jay told the OIG that the Phoenix EC was routed to his mail folder by the squad secretary. He said he recalled reading it in August 2001. He said that he did not know Williams and never spoke to him either before or after Williams wrote the EC. Jay said he assumed that Williams listed his name on the EC because he was one of the agents who worked on the Bin Laden squad in New York.

⁷⁸ We were told that in 2003 the squad that handled Bin Laden matters received approximately 3,300 leads.

⁷⁹ We were told that "read and clear" leads often were not closed in ACS for several months due to the lack of clerical support.

⁸⁰ The Phoenix EC addressed Jay as the SSA of the squad. He was one of two "relief" supervisors who filled in for the SSA when he was not in the office. At the time, the SSA was out of the office on extended medical leave.

Jay told the OIG that he did not believe that Williams' theory was based in fact. He asserted that a "glaring deficiency" was the implication that Bin Laden had a support network in Arizona. He asserted that there had been a terrorist cell that was active in Arizona, but that this was in the 1980s before al Qaeda existed. He said that based on what was written in the EC about Subject No. 1's connections to Bin Laden – that Williams was basing the connection on what Subject No. 1 had said in two interviews – Jay believed that Subject No. 1's connection to Bin Laden was "tenuous, at best." Jay stated that if it had been his responsibility to address the Phoenix EC, he would have "taken issue" with it and would have written back that he believed that the theory and conclusions were "faulty." He added that the FBI was well aware that [REDACTED] Middle Easterners commonly received flight training in the United States. He said he was not aware of anything that supported the theory espoused in the EC.

Jay said that he reviewed the recommendations and saw that the requested actions in the EC were for FBI Headquarters to address. He said that he believes he may have discussed the EC with some of his colleagues and that they agreed that the recommendations were something for FBI Headquarters to address. Jay told the OIG that he did not contact Williams or anyone else in Phoenix to discuss the EC.

Mark, the other agent listed on the attention line on the Phoenix EC, was assigned to the international terrorism squad that handled cases that were managed by the RFU. Mark told the OIG that he did not see the Phoenix EC until after September 11, 2001. ACS records confirm that he did not access the Phoenix EC until after September 11.

Except for an analyst and an auditor in New York who reviewed the Phoenix EC in connection with searches unrelated to the Phoenix EC, and the secretary who accessed the EC to assign the lead, we found no evidence that anyone else in New York read the Phoenix EC or did anything with regard to it.⁸¹

⁸¹ ACS shows that an auditor and an IRS on a squad not related to Bin Laden cases accessed the Phoenix EC during this time period. They both said the EC did not relate to what they were researching, and they did not do anything with it.

III. OIG analysis

This section analyzes the handling of the Phoenix EC by the FBI. We believe, and the FBI has acknowledged, that the Phoenix EC did not receive the sufficient or timely analysis that it deserved, and it was not disseminated, as it should have been, for consideration and input by others in the FBI and the Intelligence Community.

While the FBI analysts who reviewed the EC did not give it timely attention, we do not believe their individual failings were the main source of the problem with the handling of the EC. Rather, the deficiencies in its handling were caused in greater part by critical systemic failings in the way that intelligence information and requests for assistance were handled by the FBI prior to September 11. In this section, we discuss these systemic problems before evaluating the actions of the individual employees who came in contact with the EC.

A. Systemic problems

Before discussing the systemic failings evidenced by the handling of the Phoenix EC, it is important to note what the Phoenix EC was not. It was not an immediate warning about a terrorist plot, and it did not reveal information about the September 11 attacks or those who committed the attacks.⁸² The EC itself was worded to convey that Williams was proposing a theory rather than a warning or a threat. Williams designated it as “routine” because he did not have any information of a specific threat or pending attack. He said that he was putting forth “an investigative theory” or “hunch,” and he was seeking an analytical product or feedback in response to his theory. He did not expect that to happen immediately.

Yet, even though it did not contain an immediate warning and was marked routine, Williams’ information and theory warranted strategic analysis from the FBI, which it did not receive, and timely distribution, which it did not

⁸² In prepared remarks for congressional testimony on May 8, 2002, former ITOS Section Chief Michael Rolince noted that “it should be stressed that none of the individuals identified by Phoenix were connected to the 9/11 attacks, nor did the leads stemming from that EC uncover the impending attacks.” (Emphasis in original.)

receive. While we cannot say that better handling of the Phoenix EC would have uncovered the September 11 plot, the EC should have been handled differently.

1. Ineffective system for assigning and managing work

The lead from the Phoenix EC was assigned by an administrative employee directly to an IOS in the RFU, Ellen, who discussed the matter with another IOS in the appropriate unit, Jane. They decided that Jane would handle the Phoenix EC. Thereafter, Ellen closed the lead in ACS and noted that she and Jane would discuss the matter further in the future. Although Jane briefly mentioned the Phoenix EC to her supervisor, the IOSs made independent judgments about what needed to be done to address the requests in the Phoenix EC and who to notify about it. Jane also decided when she would work on the Phoenix EC. We found that neither Ellen's direct supervisor (Chris) nor Jane's supervisor (Rob) ever received or reviewed the Phoenix EC. Nor did any other supervisor in FBI Headquarters. And as of September 11, Jane had not completed any work on the Phoenix EC.

We found that the assignment of the lead from the Phoenix EC, the handling of the Phoenix EC independently by an IOS, and even the closing of the lead did not violate any FBI policies or practices at the time. In instances where IOSs received leads or intelligence information directly, they were not required to seek any supervisory input on the information that they were handling. Witnesses stated that more significant threat information or leads related to important cases usually were discussed with the SSAs, but that this did not occur with every lead or assignment, and it was not required.

For example, Rob, the acting unit chief of the UBLU at the time, told the OIG that he often relied on the judgment of IOSs in how they handled their work. As a result, IOSs regularly handled most intelligence information and other assignments without supervisory input or knowledge.

Much also was left to the IOS's discretion in deciding what was a priority and which projects to focus on. Don, the unit chief of the RFU, said that at the time, managers relied on IOSs to exercise their judgment in how to prioritize their work. The IOSs we interviewed stated that the priorities were determined by the nature of the work. For example, they said they gave a threat of a terrorist attack or an emergency FISA request the highest priority. In addition,

if information was requested by higher level FBI officials or a Section Chief, that assignment was given priority. IOSs explained that, because of the crush of immediate projects, they were operating with a "triage" approach to their workload in which they dealt with crises or problems as they arose and thereafter dealt with routine matters. As with how they handled their leads and other assignments, we found that IOSs consulted with their supervisors about prioritizing their work only when they deemed it necessary.

We believe that although the assigning of the lead and handling of the Phoenix EC was in accord with UBLU and RFU practices at the time, these practices were significantly flawed. Assigning work directly to IOSs with no requirement of supervisory input or review resulted in a lack of accountability for addressing leads and intelligence information. Without supervisory involvement, IOSs were permitted to determine what was a priority, and even when and whether work would be completed. As a result, there often was no check on the decisions being made by IOSs and no way to ensure that work or intelligence that was deemed of a lesser priority – such as the Phoenix EC – was ever addressed. This system was one in which important information could easily "fall through the cracks," not receive timely attention, or not be brought to the attention of those inside and outside the FBI who had a reason and a need to know the information.

The lack of accountability and supervisory involvement was compounded by the fact that the FBI's computer system, ACS, was not set up to ensure that all addressees on an EC were even made aware of the EC. Only individuals assigned leads associated with the EC would be notified electronically of the document's existence. This meant that when the EC and leads were uploaded, the EC would not be seen by a supervisor, even if the supervisor was an addressee on the attention line, unless the supervisor searched ACS for the document. Nor was there any assurance that the persons listed on the attention line of the EC would ever receive notification about it. Since FBI employees did not search ACS on a regular basis for documents that might be addressed to them, they did not learn about leads or other intelligence information assigned to them.

As a result, we found that none of the supervisors listed on the Phoenix EC saw it before September 11. Important judgments were made about how to handle the Phoenix EC – which IOS would address the Phoenix EC, closing the lead instead of reassigning it, sending the EC to only one person for review, not

conducting any research on the recommendations suggested in the EC while other matters were being handled – none of which involved any supervisory input. This, in our view, is not an appropriate system for handling such important information.

The FBI recognized this problem after September 11 and changed the way it handled such information. Rolince told the OIG that once he became aware of the Phoenix EC after September 11 and learned how it had been handled, he instructed that leads in ITOS had to be assigned to supervisors and could not be assigned only to IOSs.

In addition to deficiencies in the supervisory process, we also believe that the FBI's practice and policies regarding closing of leads were faulty. As evidenced by the handling of the Phoenix EC, leads could be closed without any work being done on them, other than reassignment to someone else.

A contributing factor to the ineffective management of the work assignments in ITOS was the FBI practice of rotating supervisors through FBI Headquarters on a relatively short basis. We found that supervisors typically stay in FBI Headquarters for two years or less, and SSA positions and unit chief positions often remain unfilled for months at a time. By contrast, IOSs remain in ITOS on a permanent basis and are therefore relied upon for their expertise and institutional knowledge about counterterrorism programs, intelligence on FBI targets, relationships with other intelligence agencies, and how FBI Headquarters works. As a result, IOSs sometimes manage themselves. While we believe that many IOSs are capable and dedicated FBI employees, the turnover of managers in FBI leaves a gap in IOSs' supervision, in addition to making it difficult for managers to be effective and knowledgeable about their subject areas before they are sent to a new assignment.

2. Lack of adequate strategic analytical capabilities

We believe the Phoenix EC warranted strategic analysis. It never was subjected to any such analysis before September 11. Ellen and Jane agreed that Jane would handle the Phoenix EC, but Jane did not refer it to the entity at the FBI that was assigned to conduct strategic analysis, the ISD. She said she decided not to refer it to the ISD for analysis and instead keep it for herself to work on when she had time. She believed that the ISD did not have sufficient

capability to perform timely analysis. At the time, the FBI had no IRS in the ISD specifically assigned to handle matters involving Bin Laden, despite the importance of that assignment. As we discuss in more detail below, while the handful of analysts who worked in the ISD were supposed to perform strategic analytical functions, most of their time was spent assisting on case-related matters.

This was a significant failing. A critical component of the work of the FBI's Counterterrorism Division is analysis. Although case-related analysis – also called “tactical” or “operational” analysis – is crucial to bringing criminal cases to the point of arrest and prosecution and to determining through intelligence information whether a particular target or group may be planning an imminent terrorist act, strategic analysis is equally important to the FBI's counterterrorism mission. Strategic analysis involves drawing conclusions and predictions about terrorist organizations and likely methods of attack based on all sources of information. It is critical to the FBI's ability to be proactive instead of reactive as well as to set investigative priorities. It is also critical for identifying intelligence gaps in information about a terrorist group or target.

Since September 11, the FBI has acknowledged that it lacked an effective strategic analysis program for international terrorism prior to September 11. In congressional testimony, Director Mueller acknowledged the FBI's analytical capabilities prior to September 11 were “inadequate.” He stated that the FBI's analytical capability “[was] not where it should be.” Since then, the FBI has focused attention on improving its analytical functions.⁸³

Prior to September 11, the FBI's strategic analytical capabilities were extremely limited. The FBI did not regularly prepare analytical products that predicted trends, explained patterns, or identified national security vulnerabilities with respect to international terrorism.⁸⁴

⁸³ The OIG is in the process of completing a comprehensive review of FBI's analyst program and it is tentatively scheduled to be completed in September 2004.

⁸⁴ A striking example of the FBI's failing in this regard is documented in a September 2002 OIG audit report which found that the FBI had not performed a comprehensive national-level assessment of the threat and risk of terrorist attack, despite having promised Congress that it would do so following a September 1999 General Accounting Office (GAO) report. As of September 11, 2001, the FBI had developed a draft of a report that was (continued)

This lack of strategic analytical capability undoubtedly affected how the Phoenix EC was handled. Instead of being able to send the EC to a unit that had sufficient expertise and resources to assess the theory laid out by Williams, Jane kept it to herself, hoping to find the time to turn to it amid the crush of other duties. She was not able to do so before September 11.

Part of the problem was that, in the past, the FBI did not adequately value or support an analytical program. This problem was aptly described by one CIA official – one of several CIA managers enlisted by the FBI after September 11 to help turn around the FBI's analytical program – as “a lack of a culture of analysis.” The FBI was composed predominantly of agents who performed criminal investigative work and who did not appreciate the value of strategic analysis. This was particularly acute in the FBI's Counterterrorism Program. As a result, FBI counterterrorism IOSs, SSAs, and managers had a tendency to rely on their own experience and professional judgment rather than seeking strategic analysis, and the Counterterrorism Program focused on immediate, short-term operational priorities rather than strategic analysis.

Strategic analysis was viewed as a support function rather than its own discipline. IOSs and agents employed IRSs primarily to conduct research and analysis projects in support of on-going investigations or prosecutions. While this research and analysis often involved complex and time-consuming work, such as reviewing information collected as a result of a FISA warrant or establishing the connections between targets in a case based on a review of telephone records, it was normally in furtherance of a specific investigation.

Furthermore, several IRS employees we interviewed told the OIG that IRSs often were used to perform the work that IOSs did not like to do, such as conducting name searches in ACS or performing research on the Internet. A

(continued)

purportedly the threat assessment. The OIG reviewed a draft of the report in May 2002. We concluded that it was not a threat assessment because it did not describe the nature of the terrorist threat, identify critical intelligence requirements, or make recommendations to any level of FBI management. See “A Review of the Federal Bureau of Investigation's Counterterrorism Program: Threat Assessment, Strategic Planning, and Resource Management” (May 2002). In January 2003, the FBI issued an intelligence assessment entitled “The Terrorist Threat to the U.S. Homeland: An FBI Assessment,” which responded to the recommendations in our September 2002 audit report.

CIA manager detailed to the FBI told the OIG that IRSs were considered "second class citizens" at the FBI. This view of analysts reduced the ability of the FBI to conduct the strategic analysis that was needed on projects such as the Phoenix EC.

Another example of how the strategic analytical function was subordinate to the operational function in the FBI's Counterterrorism Program is evident in the fact that 5 IRSs were absorbed into an operational unit in late 2000, when there were fewer than 20 IRSs devoted to international terrorism at the time. These IRSs were assigned in late 1998 to the UBLU to conduct research and complete other tasks in support of the investigation and prosecutions stemming from the embassy bombings in East Africa. These were important assignments that needed to be done, but they made it more unlikely that strategic analysis, such as the kind warranted by the Phoenix EC, would be accomplished.

In addition, the primacy of the operational units was further demonstrated by the fact that the judgments and conclusions of IRSs set forth in analytical products could be overruled or blocked from dissemination by the managers in the operational units or the ITOS section chief. Witnesses told the OIG that operational personnel were permitted to prevent dissemination of analytical products. For example, IRSs told the OIG that a proposal for an analytical report that would have discussed signs that al Qaeda was planning a terrorist attack was stopped by a New York Field Office supervisor because of concerns that the information could be subject to discovery in a prosecution.

Witnesses also told the OIG that operational units' ability to override the conclusions of the IRSs was demoralizing to the analytical component. CIA analysts detailed to the FBI after September 11 to revamp its analytical program asserted to the OIG that operational personnel, whose expertise is case-oriented and therefore tactically based, should be involved in checking the facts presented in the analytical product but should not be able to alter or block the dissemination of analytical results.

While there are legitimate tensions between operational and analytical personnel, the FBI had no process before September 11 for addressing conflicts that arose out of this tension.

3. Resources and training for analysts

The FBI's strategic analytical function also was under-resourced. This was demonstrated by the shortage of IRSs and the lack of training offered to them. We interviewed former IRS managers about the resources of the ISD prior to September 11. The FBI acknowledged that the number of IRSs working on counterterrorism matters had dwindled prior to September 11, and that the few remaining IRSs were not sufficient to address the analytical needs of the ISD.

In 1996, the FBI had hired 36 IRSs in an effort to bolster its international terrorism analytical program. According to witnesses, within a year approximately half of the IRSs had left the program. By mid-1999, there were only approximately 15 international terrorism IRSs, and by mid-2000 there were only 10 IRSs devoted to counterterrorism analysis.⁸⁵ Former IRS managers confirmed to us that only one IRS was assigned to UBL matters in 2001, but she transferred to another unit in July 2001. Thus, in the summer of 2001 when the Phoenix EC was received, no IRS was assigned to work on Bin Laden matters. Jane pointed to this void as one reason she did not seek analysis of the Phoenix EC.

In addition, we found that training for analysts at the FBI was ad hoc and untimely. While special agents were sent to Quantico to the FBI Training Academy for a 16-week course, IRSs did not receive equivalent training at Quantico or elsewhere. IRSs received mostly on-the-job training until they could attend a CIA or Defense Intelligence Agency course on international terrorism. For some IRSs, this did not occur until they had been working for a year or more. In addition, IRSs told us they had to seek training on their own, and if they changed program areas they also had to find appropriate training in the new subject matter.⁸⁶

⁸⁵ Some IRSs left the FBI, while others transferred to other positions within the FBI. FBI documents show that 10 IRSs became IOSs in ITOS, 8 moved to other positions within the FBI, and 13 left the FBI. In addition, as discussed above five of the IRSs who became IOSs were administratively transferred to the UBLU after working on a task force in support of the embassy bombings case.

⁸⁶ While this section of the report primarily focuses on resource and training issues for IRSs, IOSs also were not provided with adequate resources and training.

Counterterrorism IRSs also lacked a clear career path. They usually were supervised and managed by agents, who were not trained about the IRS position, mission, or work product. Moreover, CIA managers detailed to the FBI to improve its strategic analytical capabilities told the OIG that in order for analysts to be taken seriously, they had to hold positions of authority. As an example, they stated that in the CIA one of the Deputy Directors was an analyst.⁸⁷ According to another CIA manager, the lack of a career path for IRSs was a clear indication that IRSs were not valued by the FBI.

The result of these deficiencies was a weak and underutilized analytical function, which in our view contributed to the lack of attention that the Phoenix EC received when it was sent to FBI Headquarters.

4. Poor information flow and information sharing

The FBI also has acknowledged that the Phoenix EC contained information that should have been disseminated and reviewed by other parts of the FBI and the Intelligence Community. While the Phoenix EC did not contain information that constituted an imminent threat or warning of a terrorist attack, the FBI should have obtained input from within and outside the FBI to properly analyze Williams' theory. However, before September 11 the Phoenix EC was not disseminated widely within or outside of the FBI.

When Jane received the EC, she decided not to disseminate it immediately. She believed it lacked sufficient factual support to warrant immediate dissemination, and she said she decided to conduct some initial research before deciding whether to invest additional resources on the EC. Because of her other work, she did not begin the research prior to September 11.

Her actions were consistent with the FBI's policies and procedures at the time. As noted above, IOSs were permitted to exercise discretion in handling their assignments, including determining what information to share both within and outside the FBI, without supervisory approval. The FBI provided them no guidance or requirements on what type of information should be shared, either

⁸⁷ Within the Counterintelligence Program, the highest position held by an analyst was Section Chief.

inside or outside the FBI. This left to the discretion of the individual analyst decisions about what to do with intelligence information, such as the Phoenix EC.

We believe exercise of such significant discretion resulted in a failure to share important information such as the Phoenix EC. Fundamental to the effectiveness of an intelligence operation is its ability to collect and disseminate information within and outside the agency. Such information is needed by operational personnel to inform their investigations or other operational goals. Moreover, in the analytical process, the more information that is available about a terrorist organization or a target, the better informed conclusions and predictions about the likely actions of the person or organization. Information should be reviewed, among other things, to determine what would be useful in other FBI investigations, what other personnel or offices within the agency should be provided with the information, what would be useful for other government agencies, what would be useful and appropriate to disseminate to foreign governments, and what can be declassified for use in public alerts.

But information sharing within and outside the FBI's Counterterrorism Program prior to September 11 was piecemeal and ad hoc rather than systematic. Several of the CIA managers detailed to the FBI told the OIG that there was no "information flow" within the FBI. The FBI's process for disseminating information was to route information primarily to IOSs, who then used their own judgment and experience to decide what needed to be disseminated and to whom. As discussed above, IOSs were operating with a "triage" approach to their workload. They had to identify what information was the most significant and deal with the crises or problems as they arose. As a result, information that did not demand immediate attention or did not relate to a crisis took significant time to be addressed, if it was addressed at all.

The CIA managers we interviewed asserted that an intelligence agency must set priorities to identify what its information needs and intelligence gaps are. They said that once priorities and intelligence gaps are identified, decisions can be made about what information should be collected and who should receive the information. They explained that these decisions should then be communicated throughout the agency as "requirements."

Several of the CIA managers also noted that the FBI lacked any priorities or requirements for the dissemination of information once it was collected. For example, there was no guidance concerning what types of information were required to be disseminated or included in reports to other intelligence agencies. Moreover, there were no requirements that certain types of information be routed to analysts or that analysts be copied on particular kinds of communications. IOSs simply shared or disseminated the information they believed needed to be shared based primarily on their prior experience.⁸⁸

IOSs we interviewed told the OIG that they spent a majority of their time preparing documentation for requests for FISA warrants. They also were responsible for providing advice and assistance to the field offices in connection with ongoing investigations and with responding to threats of terrorist acts. They also had to obtain resources to support investigations, such as arranging for translators or preparing documentation for re-allocation of money. They needed to respond to requests to check telephone numbers, names, and other identifying information about targets of investigations in FBI and CIA databases. While the IOSs acknowledged that collection and dissemination of intelligence information was one of their responsibilities, they stated that as a job function it was not a priority before September 11.

Several IOSs stated that it was impossible for IOSs to be aware of and disseminate every piece of information generated by every lead because of the demands of the other responsibilities of their jobs. As a result, they said that they had to focus on the most significant information that was generated from important cases or credible threats. Jane, other IOSs, and special agents told us that the type of intelligence information that received immediate attention was that generated from explicit threats of an attack or other terrorist act, information that a terrorist who was in custody was being brought to the United States, or intelligence intercepts by another agency that led to a name and phone number in the United States of a target. Other information was handled if there was time.

⁸⁸ We also discuss the FBI's lack of policies and procedures for information sharing in our December 2003 OIG audit report, "The Federal Bureau of Investigation's Efforts to Improve the sharing of Intelligence and Other Information" (December 2003) at 19-20.

By contrast, according to the CIA personnel, the dissemination of intelligence information requires full-time personnel trained solely for that purpose. In the CIA, dissemination of intelligence information is handled by "reports officers" who are professional employees trained in analysis and information collection and dissemination.

It also was clear in our review of the Phoenix EC that the FBI's procedures for disseminating information internally were cumbersome. At the FBI, many layers of review were required to distribute an EC to multiple field offices. Disseminating an EC to all FBI field offices required approval from several supervisors and managers, including the FBI Director. Several witnesses stated that the review and approval process normally took several weeks to complete. The CIA employees detailed to the FBI to improve the analytical program who we interviewed told the OIG that they found the process for completing an EC was "difficult" and "hard."

We believe that the Phoenix EC should have been shared with the Intelligence Community or parts of the Intelligence Community for their input and analysis. While Williams had advanced only a theory, and there needed to be more analysis of the recommendations before they were adopted, the EC should have been presented to others in the FBI and the Intelligence Community for their information and analyses. The fact that it was not disseminated reflected the longstanding problem within the FBI of information sharing being ad hoc and piecemeal. Rather than relying on the judgment of IOSs about what information should be disseminated as they juggle their other job duties, the FBI should have a system in place to guide, identify, and prioritize the kinds of information that need to be shared.

5. General complaints about the difficulties of working in ITOS

We also heard consistently from witnesses in ITOS that working there before September 11 was extremely chaotic and difficult. They complained that all aspects of their jobs – from putting FISA packages together to disseminating intelligence to sending out ECs to the field – were hampered by the lack of resources and poor technology.

IOSs, agents, and managers uniformly told the OIG that IOSs did not have sufficient time to handle the workload in ITOS, and that because of the lack of resources in ITOS and the demands of operational matters in the

section, they worked extremely long hours on a regular basis, including nights and weekends. They described being overwhelmed with work, including intelligence information that needed to be disseminated. For example, they said that hundreds of leads could be generated by any one case. They stated that the demands of a particular case or a particular threat sometimes consumed all of their time and attention for several days or even weeks. As previously discussed, they were operating with a “triage” approach to their workload in which they dealt with crises or priority problems as they arose. We found that as a result, issues that they considered to be non-priority matters, such as the Phoenix EC, often were placed on the backburner.

FBI and CIA witnesses also uniformly complained that the FBI’s computer system – ACS – impeded the flow of information. As we have discussed in several other OIG reports, ACS is a very cumbersome and non-user-friendly system that discourages its use.⁸⁹ To disseminate information within the FBI was not simply a matter of forwarding an electronic document in a point and click e-mail environment. Rather, an IOS would have to prepare an EC, which required accessing several different screens in ACS to complete and then upload the EC.⁹⁰ In addition, witnesses complained that ACS especially hampered the flow of information because it was not a system designed to “push” information out to the user. Instead, the user had to know that information existed in order to find it. As discussed above, this resulted in the Phoenix EC not being reviewed by the appropriate individuals, even when their names were on the attention line.

⁸⁹ See, e.g., OIG reports entitled, “The Federal Bureau of Investigation’s Implementation of Information Technology Recommendations,” (September 2003); “FBI’s Management of Information Technology Investments” (December 2002); “An Investigation of the Belated Production of Documents in the Oklahoma City Bombing Case” (March 2002); and “The Handling of FBI Intelligence Information Related to the Justice Department’s Campaign Finance Investigation” (July 1999).

⁹⁰ Also, as stated above, ECs that were addressed to all field offices required several layers of management approval, which also slowed down the process.

B. Individual performance

We now turn to the actions of the individuals who were involved with the Phoenix EC. While the systemic problems hampered FBI employees in handling information such as the Phoenix EC, and explained to some extent the reasons that FBI employees did not adequately respond to it, these systemic problems do not explain all the deficiencies we found in the handling of the Phoenix EC. While we do not believe that anyone involved with the Phoenix EC at FBI Headquarters committed misconduct, we believe that some of them made errors in judgment with respect to some of their actions on the Phoenix EC.

1. Kenneth Williams

First, we believe that Williams should be commended for his initiative and for his attempts to apply broad analytical thinking to his casework. He prepared the Phoenix EC based on his experience, intuition, and expertise, and he sought assistance through the proper channels at FBI Headquarters in pursuing his theory. It was FBI Headquarters' responsibility – not a field office's responsibility – to decide what strategic analysis was needed to address the issues Williams raised and to ensure that appropriate attention was directed to the analysis of those issues. Williams deserves praise for, in the midst of handling cases in the field, discerning a pattern that he thought warranted review and seeking to bring that to the attention of others in the FBI.

2. FBI Headquarters

a. Jane

Jane's decision not to refer the Phoenix EC to the ISD and instead to conduct the necessary research herself did not violate any FBI policies and procedures at the time. Leads could be assigned and handled without supervisory input, and much was left to IOSs' discretion and judgment about how assignments were handled and prioritized.

However, we question Jane's decision not to refer the Phoenix EC to the ISD for analysis. While the FBI's strategic analytical capabilities were extremely limited, as we have described above in detail, and no IRS was specifically assigned to Bin Laden matters, Jane could have, and should have, referred the Phoenix EC to the ISD for analysis. By all accounts, Jane was

hard working and conscientious. But the press of other work prevented her from addressing the Phoenix EC sufficiently. While she said that she did not think that the ISD could do what was necessary to analyze the Phoenix EC because no IRS was specifically assigned to Bin Laden matters, she could have raised the problem to her supervisor's attention in an attempt to have resources assigned to analyze the Phoenix EC. Instead, she kept the Phoenix EC to herself, hoping to get to it when time allowed. But she did not have time for it. We believe that, even if she intended to conduct research on it when time permitted, she should have provided it to members of the Intelligence Community for their input on the theories and recommendations it advanced.

b. Ellen

Ellen recognized that the Phoenix EC pertained more to the UBLU than the RFU, and she appropriately discussed it with Jane and had the matter reassigned to her. She also noted in the disposition field of ACS how the lead was being handled. Ellen closed the lead, but rather than closing the lead, she should have reassigned the lead to Jane. While this was not inconsistent with how leads were handled in ITOS, given the pressure to close leads in the system, it misrepresented the status of the lead since the necessary research had not yet been completed.

c. Rob

We believe that Jane's supervisor – Rob – should have recognized that the requests in the Phoenix EC were not typical requests for operational support in the field and should have directed the matter to the ISD. Although we recognize that the FBI left much to the discretion and judgment of IOSs about how they handled their work, it was Rob's responsibility as a supervisor to ensure that Jane was handling requests appropriately. Jane briefly mentioned the Phoenix EC to Rob, but said he did not review it, and we do not believe he sought to ensure that it received adequate attention. We believe that Rob should have been more actively involved in Jane's handling of the Phoenix EC. If he had decided that resources did not exist to address the EC for several months, we believe that he should have brought the matter to the attention of his section chief.

3. Lynn

Jane sent the EC to Lynn, the IRS who works counterterrorism matters in a field office that had had an investigation of Subject No. 2, with a note that read, "I thought it would be interesting to you considering some of the stuff you were coming up with in [your field office]. Let me know if anything strikes you." Jane did not call Lynn to discuss the Phoenix EC prior to sending Lynn the e-mail, and Lynn was not assigned a lead with respect to the Phoenix EC. Lynn read the Phoenix EC, but did not respond to Jane's e-mail, and Jane did not otherwise contact her about the Phoenix EC.

As discussed above, Lynn had several years earlier worked on an investigation in which Subject No. 2 had been central, and Subject No. 2's name had resurfaced in June of 2001 when two individuals were detained in Bahrain who admitted to being al Qaeda operatives and possessed a passport containing the same last name as Subject No. 2 and a previous address of Subject No. 2. Lynn told the OIG that after Subject No. 2's name resurfaced, at the request of Jane she researched their associates from when they had lived nearby. Lynn told the OIG that she believed Jane had sent her the Phoenix EC because Subject No. 2 was mentioned in the EC. Lynn explained that because the information in the EC about Subject No. 2 did not impact what she was working on and because she was not aware of any information that supported Williams' theory, she did not respond to the e-mail.

Lynn was not required to respond to the e-mail by any formal FBI policy. Her actions were consistent with others in the FBI, who did not address an issue unless a lead was assigned to them. But we believe that Jane's request for Lynn to let her know if anything struck her warranted some response, even if the response was that Lynn had nothing to support the theory espoused in the Phoenix EC. Instead, Lynn did nothing in response to the e-mail. A response from Lynn may have caused Jane to take some other step, to seek further input from someone else, or to alert Phoenix of the status. Instead, Lynn did not communicate with Jane, and the Phoenix EC languished.

4. Jay

Jay, an agent on the Bin Laden squad in the FBI's New York Field Office, received and read the Phoenix EC. He told the OIG that he was not aware of any information that supported the theory in the EC, and he therefore

did not respond to it, either in writing or by contacting anyone in the Phoenix office. He also stated that he would have "taken issue" with the conclusions if he had responded. Jay was not required to respond to the Phoenix EC, and he did not violate any FBI policies and procedures by not responding.

Yet, although Jay was not required to respond to the lead set for the New York Field Office in the Phoenix EC, Williams had asked for analysis and comments on his proposal in the text of the EC. Since Jay told us he felt strongly that the theory in the Phoenix EC was not supported by the facts, we believe he should have contacted Williams or someone in FBI Headquarters to discuss the EC to provide his view, given the expertise of the New York office on issues involving Bin Laden. But given the disorganization and convoluted way that leads were assigned, and the prevailing practice not to respond to leads that were not specifically assigned to an agent, it is not surprising that Jay did not respond.

5. FBI management

Finally, we believe it important to state that the failings in this case go well beyond any failings of those individuals who came in contact with the Phoenix EC. In our view, the failings were caused in much larger part by the FBI's inadequate and inefficient system for analyzing intelligence information, and the lack of attention paid by many levels of FBI managers to strategic analysis. This was the responsibility of many FBI managers and employees, from the top down, over many years. We believe that the FBI's lack of focus on strategic analysis and its failure to provide sufficient resources and priority to analysis were problems attributable to the FBI and many FBI senior managers. While some of the individuals who handled the Phoenix EC did not do all they should have to address it in a timely way, the larger and more important failure was the way the FBI handled intelligence analysis for many years before the September 11 attacks.

C. Other pieces of intelligence concerning airplanes as weapons

[REDACTED]

[REDACTED]

The FBI conducted searches in its computer systems for references to “flight schools,” “airplanes,” “hijackings” and other related terms in an attempt to collect information that the Joint Inquiry Committee Staff had indicated it was interested in reviewing but had not specifically requested. The FBI collected the documents retrieved in its electronic searches and provided them to the Joint Inquiry Committee Staff and also to the OIG.

We reviewed the information provided by the FBI that referenced a connection between airplanes or flight schools and persons of interest to the FBI. The information was from as early as 1983, although most of it was from 1998 and 1999. Below we briefly describe four of the pieces of information that are representative of the kinds of information contained in FBI files about airplanes and flight schools at the time the Phoenix EC was received at FBI Headquarters:

- The FBI received an intelligence report in mid-1999 stating that the leadership of a terrorist organization other than Al Qaeda had met and planned to use students in the United States to gather intelligence on infrastructure facilities and public places frequented by Jews. It was also reported that students also would be selected to participate in terrorist training camps [REDACTED]

[REDACTED] It was reported further that the leadership of the terrorist organization viewed this requirement as being “particularly important” and were believed to have approved an open-ended amount of funding to ensure its success.⁹¹

- In August 1998, an intelligence agency advised the FBI’s New York Division of an alleged plan by unidentified Arabs to fly an explosive

⁹¹ The FBI later said that in 2002, in connection with the JICI Review, it researched this issue and concluded that the information reported was likely a fabrication.

laden aircraft from Libya into the World Trade Center. The New York Division sent out leads in an attempt to obtain more information about the source of the reporting.

- On May 18, 1998, a Special Agent on the FBI's Oklahoma City Division's counterterrorism squad prepared an EC documenting his contact with an agent from that Division's surveillance squad, who also was the Division's chief pilot. In the EC, the agent noted that the Division pilot had observed "large numbers of Middle Eastern males receiving flight training at Oklahoma airports in recent months." The agent also reported that the pilot speculated that light planes would be an ideal means of spreading chemical or biological agents.
- In January 1995, Philippine authorities responded to a small fire and several explosions in an apartment in Manila. Inside the apartment, authorities discovered bomb-making equipment and terrorist literature. The resulting investigation revealed a plot to place explosive devices in 12 American passenger aircraft. As a result of the FBI's investigation into this matter, Abdul Murad, Wali Shah, and Ramzi Yousef were subsequently indicted and convicted in the United States for their involvement in the conspiracy. Yousef later was convicted on November 13, 1997, for his involvement in the bombing of the World Trade Center on February 23, 1993.

During investigative interviews, Murad described general conversations with Yousef in which they discussed the potential use of aircraft to commit terrorist acts. According to Murad, he discussed with Yousef the ease with which a pilot could conduct a suicide attack by crashing an explosive-laden aircraft into a building. Murad mentioned CIA Headquarters as a potential target. Murad contended in investigative interviews that there was no specific planning in relation to any of these acts. Murad also described other general conversations with Yousef concerning potential non-aircraft related terrorist acts, such as bombing a nuclear facility, utilizing poison gas, and bombing the World Trade Center a second time.

As discussed above, the FBI conducted little strategic analysis before September 11, and it never attempted to connect any of these disparate pieces of information. For this reason, these pieces of information and all of the other

information in the FBI's possession that might have been used to analyze the use of airplanes and civil aviation for terrorist purposes was never considered systematically or analytically.

D. Conclusion

In sum, our examination of the FBI's handling of the Phoenix EC found that the individuals who handled it did not violate FBI policies and practices at the time, but they did not do all they could have, and should have, to respond to it or the recommendations in it. They should have sought input from others in the FBI, assured that the EC received the necessary analysis, and also sought input from the Intelligence Community about the theories and suggestions contained in it.

But we believe that their actions were not surprising, given that the policies and practices under which they operated were extremely flawed. We found that IOSs were not properly managed and that supervisors should have been more actively involved in the work assigned to IOSs. In addition, as an institution, the FBI was focused on its operational priorities at the expense of conducting strategic analysis. Furthermore, the FBI lacked a systematic approach to information sharing and lacked adequate tools to facilitate such information sharing both within and outside the FBI. As a result of these systemic failures, the FBI did not give the Phoenix EC the consideration that it deserved.

We cannot know for certain what the FBI would have concluded prior to September 11 if the FBI had applied strategic analysis to the theory posed by the Phoenix EC or what information may have been uncovered in support of the theory if the Phoenix EC had been shared with the Intelligence Community or within the FBI. We also cannot know what rôle, if any, the pieces of other information described above would have played in the analysis of this question. What we do know is that the FBI was not adequately analyzing information for the purpose of drawing conclusions and making predictions. This was a significant intelligence failure, which hindered the chances of the FBI being able to detect and prevent the September 11 attacks.

